**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.**

In the Matter of)	
)	
The Bell Operating Companies' Tariff)	
for the 800 Service Management System)	
Tariff FCC No. 1)	Transmittal No. 1
)	
and)	
)	
800 Data Base Access Tariffs)	CC Docket No. 93-129

To: The Commission

GTE REPLY TO OPPOSITIONS

GTE Service Corporation, on behalf of its affiliated domestic GTE Telephone Operating Companies ("the GTOCs") and the GTE System Telephone Companies ("the GSTCs") (collectively, "the GTOCs" or "GTE"), respectfully reply to the Oppositions filed to GTE's Application for Review ("Application") of the Common Carrier Bureau's 800 Data Base Tariff Order.[1] The Order suspended the GTOCs' 800 data base query rates for the full statutory period and instituted an investigation of those rates. In addition, the GTOCs were ordered to file, on one day's notice, new rates "reflecting the partial suspension of their basic 800 data base query rates." GTE is seeking review of that part of the Order which partially suspended the 800 query rates.

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[1] In the Matter of 800 Data Base Access Tariffs, 8 FCC Rcd 3242 (Com. Car. Bur. 1993) ("800 Data Base Tariff Order").

MCI Telecommunications Corporation ("MCI"), National Data Corporation (National Data") and Ad Hoc Telecommunications Users Committee ("Ad Hoc") filed Oppositions to the Application. GTE responds herein to those oppositions.

Unlawful Prescription

The opposing parties dispute GTE's claim that the Bureau has engaged in an unlawful prescription. MCI and Ad Hoc merely restate that the Commission relied upon its authority under Section 204(a) not Section 205. Notwithstanding the statutory reference cited in the 800 Data Base Tariff Order, the effect of the Order was a prescribed rate. GTE was ordered to file a tariff effective on April 28 with a basic query charge not exceeding .67 cents. When an agency tells a carrier what rate to file, that is a prescription. As the Court observed in Moss v. CAB, it would be "blinking reality" to say that the rates conforming to the Board formula were not agency-prescribed rates.[2] Those rates were found to be "determined by the Board," just as the .67 cent rate was determined by the Bureau.[3] The .67 cent rate is similarly a prescription.

National Data claims it is the "actual impact" of the decision and not the language used which determines whether a rate is prescribed. Here National Data suggests that because the rates are only interim, there is no prescription. There is absolutely no support for such an exception. Even for an interim period, GTE is adversely affected by the Order. GTE was required to file and charge a rate lower than the filed-rate, without opportunity for hearing. GTE is precluded

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[2]   Moss v. CAB, 430 F.2d 891 (D.C. Cir. 1970).

[3]   Id. at 897-898.

from charging the partially suspended portion of the filed-rate. The effect of the order is no different than a prescription.

Authority under Section 204(a)

Section 204(a) provides that the Commission "may suspend the operation of such charge . . . in whole or in part . . ." GTE recognizes that Section 204(a) gives the Commission partial suspension authority. However, GTE argued in its Application that Section 204(a) does not provide the authority to suspend a percentage of the filed-rate.

The opposing parties argue that the Commission has acted properly under its authority under Section 204(a) to order partial suspensions. Both MCI and Ad Hoc cite the fact that the Commission has taken similar action in the Dark Fiber tariff proceeding[4] as support for the partial suspensions ordered in the 800 Data Base Tariff Order. Although the Commission has taken the same statutory position before, it has never been affirmed by the Courts. In fact, parties to the Dark Fiber proceeding have sought judicial review of this issue, and that case is currently pending before the U.S. Court of Appeals for the District of Columbia Circuit. The Bureau has exceeded its partial suspension authority in the 800 Data Base Tariff Order for the same reasons put forth in the Dark Fiber challenge.

MCI argues that the filing carrier must carry the burden of supporting filed rates. GTE has not suggested that it does not have the ultimate burden of justifying its rates. In the investigation to come, GTE must show that the filed-

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4   Bell Atlantic Telephone Companies, et al., 6 FCC Rcd 4891, appeal pending sub nom., Southwestern Bell Telephone Co., et al. v. F.C.C., Cas. No. 91-1416 (D.C. Cir. filed Aug. 8, 1991).

rates are reasonable. Until that investigation is completed, however, the Commission cannot unilaterally reduce the filed rate. To do so impermissibly substitutes the Commission's rate for the carrier's rate.

Failure to Evaluate GTE Supporting Data

GTE argued in its Application that the Bureau had failed to consider the pertinent record evidence provided in the GTOCs' cost study, relying instead on a statistical analysis of the RBOCs and two other LECs. MCI (at 5) claims that the Bureau's statistical analysis of data base query rates "was a logical method of assessing the preliminary reasonableness of GTE's proposed rate." Although statistical evaluations are useful if properly employed, MCI offers no supporting information concerning the Bureau's methodology or application. In fact, the Bureau's method was seriously flawed in two ways.

First, the Bureau failed to address the underlying cost and demand data supplied by GTE in support of the proposed rates claiming instead that the statistical analysis approach was "reasonable in this context since all LECs are deploying similar data base systems."[5] As GTE argued in its Application, the Bureau overlooked the legitimate cost and demand differences between GTE and other exchange carriers. GTE clearly incurs costs that the BOCs do not, and unquestionably has lower demand, i.e., average 800 calls per line. Simple mathematics yields a higher rate for GTE than for the BOCs.

Second, the Bureau's statistical analysis was seriously flawed because the analysis used in the 800 Data Base Order was apparently based on a normal

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[5]   800 Data Base Tariff Order at ¶19.

distribution.[6] The underlying data in this case, however, does not exhibit a normal distribution. The normal distribution is well-known in statistical theory and practice. It is the familiar "Bell-shaped curve" used in applications from school grading to scientific research, and is fully characterized by its mean and standard deviation.[7] Normal distribution permits predictions to be made regarding the probability of occurrences given the mean and standard deviation.[8]

When the underlying distribution is not the normal, as in this case, the determination of the probability of occurrence must be calculated for each specific type of distribution. When the distribution is not normal, it is probable that observations would fall above one standard deviation. Without first ascertaining that the underlying distribution was normal or without determining that observations beyond one standard deviation would be unlikely to occur, the Bureau's mean plus one standard deviation standard is completely arbitrary.

Statistical tests are available to test distributional assumptions for normality. There is no evidence in the record, however, that the Bureau tested the distributional assumptions for normality or applied some distribution other than a normal distribution. Since the sample size is rather limited in this case,

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6   The statistical distribution employed by the Bureau was not specifically indicated in the Order, but it appears to have assumed a normal distribution.

7   See. e.g., Introduction to Business Statistics: a Computer Integrated Approach, Alan H. Kvanli, C. Stephen Guynes, Robert J. Pavur, West Publishing Company, 1989, Chapter 6.

8   For example, consulting a statistics table of the standard normal distribution reveals that approximately 16-percent of the observations of a normal distribution are expected to fall above the mean plus one standard deviation, the benchmark used by the Bureau staff. See. e.g., Elementary Statistics, Paul G. Hoel, John Wiley & Sons, Inc., 1966, Table IV, page 329.

the test procedure should be designed for small samples, such as the Shapiro-

Since the data base query rates are not normally distributed, it is statistically invalid for the Bureau to have applied a "mean plus one standard deviation" as the benchmark for reasonable rates. Moreover, there is no evidence in the record to support a statistical finding that the proposed rates are unreasonable. Thus, the Bureau erred in its statistical analysis and in partially suspending GTE's rates based upon this analysis.
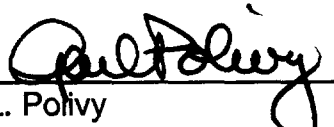
CONCLUSION

For the foregoing reasons and the reasons presented in the Application, GTE respectfully requests that the Commission grant its Application for Review of the 800 Data Base Tariff Order.

Respectfully submitted,

GTE Service Corporation on behalf of its affiliated GTE domestic telephone operating companies

By _____

Gail L. Polivy
1850 M Street, N.W.
Suite 1200
Washington, D.C. 20036

June 24, 1993   THEIR ATTORNEY

Univariate Procedure

Variable=RATE

	Moments				Quantiles(Def=5)					Extremes			
N	9	Sum Wgts	9	100% Max	0.01092	99%	0.01092		Lowest	Obs	Highest	Obs	
Mean	0.00496	Sum	0.044641	75% Q3	0.004186	95%	0.01092		0.0022(	4)	0.003646(	2)	
Std Dev	0.00318	Variance	0.00001	50% Med	0.003646	90%	0.01092		0.003089(	5)	0.004(	3)	
Skewness	1.494694	Kurtosis	0.664221	25% Q1	0.0031	10%	0.0022		0.0031(	6)	0.004186(	7)	
USS	0.000302	CSS	0.000081	0% Min	0.0022	5%	0.0022		0.0035(	8)	0.01(	9)	
CV	64.10382	Std Mean	0.00106			1%	0.0022		0.003646(	2)	0.01092(	1)	
T:Mean=0	4.679908	Pr>]T]	0.0016	Range	0.00872								
Num ^= 0	9	Num > 0	9	Q3-Q1	0.001086								
M(Sign)	4.5	Pr>=]M]	0.0039	Mode	0.0022								
Sgn Rank	22.5	Pr>=]S]	0.0039										
W:Normal	0.721216	Pr<W	0.0029										

```
   Stem Leaf                     #     Boxplot                          Normal Probability Plot
     10 09                       2        *      0.0105+                                  *      *+++
      9                                            ]                                           +++
      8                                            ]                                       +++
      7                                            ]                                      +++
      6                                   0.0065+                               +++
      5                                            ]                          +++
      4 02                       2     +-----+     ]                    ++++   *   *
      3 1156                     4     *-----*     ]            *   *++* *
      2 2                        1        +    0.0025+       *    +++
        ----+----+----+----+         +----+----+----+----+----+----+----+----+----+----+
   Multiply Stem.Leaf by 10**-3              -2        -1        0        +1        +2
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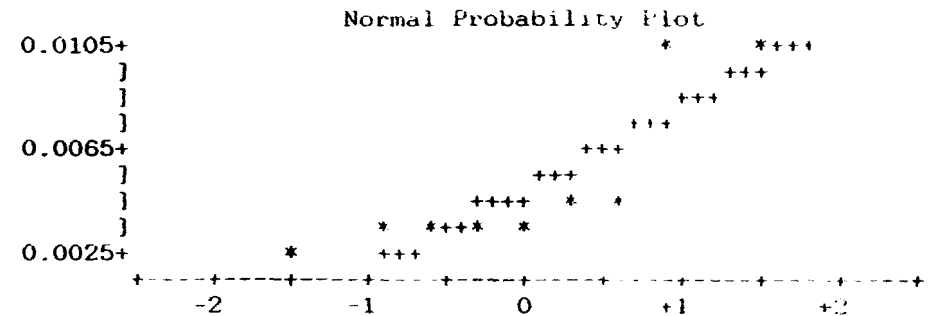
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  Program: NORMAL   c:\sasfiles
  Purpose: Test sample data for normality
  Date:     6-13-93
*********************************************************************/

data SAMPLE:
input   comp  $ 1-4 rate 7-15:          EXHIBIT I
cards:
UAVG    .010920
PACB   .003646
BELS    .004000
AMTE    .002200
BATL    .003089
SWB     .003100
NYNX    .004186
USWT    .003500
GTOC    .010000
:
/******* United Telephone System state rates ********
   FL   0.008037
   IN   0.010369
   KS   0.012885
   MN   0.012885
   MO   0.012885
   NE   0.012885
   NJ   0.010288
   NC   0.008114
   OH   0.009358
   OR   0.014217
   PA   0.010288
   SC   0.009085
   TN   0.009085
   TX   0.012885
   VA   0.009085
   WA   0.014217
   WY   0.012885
*********************************************************************/

run;

proc univariate data=SAMPLE plot normal;
   var rate;
   title1 '800 Access Service Data Base Query';
   title2 'All Rates - RBOC, GTOC & United';
   title3 'Simple Average of United State Specific Rates';
run;
```

800 Access Service Data Base Query
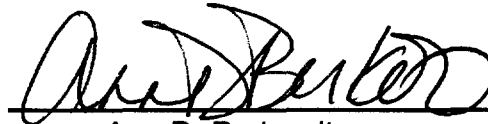All Rates - RBOC, GTOC & United by State

12:41 Monday, June 14, 1993

Univariate Procedure

Variable=RATE

```
/*****************************************************************
   Program: NORMAL   c:\sasfiles
   Purpose: Test sample data for normality
   Date:     6-13-93
```

Certificate of Service

I, Ann D. Berkowitz, hereby certify that copies of the foregoing "GTE Reply to Oppositions" have been mailed by first class United States mail, postage prepaid, on this 24th day of June, 1993 to all parties of record.

Ann D. Berkowitz